

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6292 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DHIRAJLAL PANACHAND GAGLANI

Versus

CHAIRMAN-CUM-MANAGING DIRECTOR

Appearance:

MR NV ANJARIA for Petitioner
None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/03/97

ORAL JUDGMENT

The petitioner, an employee/officer of the United India Insurance Co. Ltd., filed this Special Civil Application before this Court and prayer has been made therein for issuance of writ of Mandamus and/or writ of Certiorari or any other appropriate writ, order or direction quashing and setting aside the order dated 6th March 1984 passed by the respondent and for further direction to the respondent to treat the petitioner

categorized as Assistant Administrative Officer with effect from the date his junior Shri R.N. Trivedi was categorized as Assistant Administrative Officer with all consequential benefits including arrears of difference of pay which may be payable to the petitioner on that basis.

2. The facts of the case, in brief, are that the petitioner entered in the services of erstwhile British India General Insurance Co. Ltd. The business of General Insurance was nationalized and a scheme was introduced vide Notification dated 27th May 1874, which was known as "General Insurance (Rationalization and Revision of Pay-scales and other Conditions of Service, Clerical and Subordinate Staff) Scheme, 1974" (hereinafter referred to as the 'Scheme') with a view to introduce uniformity in the staff structure and uniform pay scale by fitting all the employees of Insurance Companies in a uniform set up by their proper categorization having regard to the nature of duties performed by each individual. The petitioner was not categorized as Assistant Administrative Officer though what he contended that he should have been categorized as such, as he was carrying on the functions in the supervisory capacity in the personnel department and other departments. The petitioner made a representation against the categorization as circulated under the order dated 13th June 1974 of the respondent, but he has not received any reply thereof. He claimed categorization as Assistant Administrative Officer as his junior Shri R.N. Trivedi was so categorized. The petitioner filed Civil Suit No.2336 of 1976 in the City Civil Court, Ahmedabad, interalia claiming a mandatory order directing the respondent to categorize him as Assistant Administrative Officer with effect from the date of appointment of his junior, i.e. Shri R.N.Trivedi to the said post. The suit was dismissed by the City Civil Court, Ahmedabad, on 26th February 1982 and the petitioner filed First Appeal No.564 of 1982 in this Court. The said appeal has been disposed of on 28th February 1983 and the judgment of this Court has been reproduced by the petitioner in para-10 of the Special Civil Application. The petitioner has withdrawn the appeal and the suit as respondent has given out that he may make representation to the Chairman-cum-Managing Director who will decide it as a special case afresh in accordance with law within three months from the date of receipt of said representation. Accordingly, the petitioner made a representation which came to be dismissed under the order of respondent dated 6.3.84. A reasoned and detailed order has been made by respondent. This order is challenged by petitioner by filing this Special Civil Application.

3. The learned counsel for the petitioner contended that the order is ex-facie illegal as it proceeds on the fact as if the petitioner was not discharging supervisory functions. It has further been contended that the respondent has not considered that Shri R.N. Trivedi was junior to the petitioner in the cadre of Assistant who has been categorized as Assistant Administrative Officer. It has next been contended that the order of the Labour Court in the Application filed by the petitioner under Section 33(c)(2) has not been properly appreciated.

4. I have given my thoughtful considerations to the submissions made by the learned counsel for the petitioner.

5. The order impugned in this Special Civil Application is detailed and considerate. On nationalization, the petitioner was categorized as Assistant. The G.I.C. introduced promotion policy for its class III and IV employees and vacancies for such promotions were notified in accordance with the policy. It is not in dispute that the petitioner has applied for his promotion as Sr.Assistant, which application has been accepted and he was promoted as a Senior Assistant with effect from 1.7.78, and the said promotion has also been accepted by the petitioner. In case the petitioner was really working as Supervisor, then what for he has prayed for promotion and accepted the promotion. It is true that in the letter dated 13.1.77 written by Branch Manager, it has been mentioned that the petitioner was assigned responsibility of carrying out functions in the supervisory capacity in personnel department and fire department, but that document alone is not conclusive. The respondent has considered all the material produced before him. He has considered both the letters dated 8.2.69 and 13.1.77 and he found discrepancy in these two letters. Further fact has been noticed that in the representation cum appeal, the petitioner has not stated that he was working with personnel department in supervisory capacity nor this point was raised before the Civil Court. Shri Narialwala, Branch Manager, who has signed the aforesaid two letters has completed the data forms of the petitioner and in the column, "Employment history", he has nowhere mentioned that the petitioner was working in supervisory capacity in any of the departments. There is also no mention about his working in the accidents department also. In the column, "Detailed description of duties performed", he was shown to be preparing and wording fire policies in fire department during 1971 and 1972. Nothing has been

mentioned about additional department and also so called supervisory functions discharged by the petitioner. The data sheets were required to be filled in by the controlling officer in terms of the scheme dated 27.5.74 and further required to be countersigned by the head of the unit part. These data sheets, as stated earlier, were filled in by the very officer, who has issued certificates to the petitioner. The respondent has rightly observed in the order dated 6.3.84, impugned in this Special Civil Application, that what prevented Shri Narialwala from mentioning the additional working of supervisory nature discharged by the petitioner in data sheets. The data sheets was preliminary document for categorization purposes. It is really a basic document which could not have been ignored and no credence could have been given to the two certificates, on which heavy reliance has been placed by the petitioner. The data sheets were filled in by the officer none other than the Divisional Manager, who was also signatory to the aforesaid two certificates. Another reason has been given by the respondent which also strongly support the case of respondent. In the agreement dated 21.5.56, which was earlier to nationalization of the Company, besides the cadre of Assistant, there was another cadre called Section Heads. The petitioner has never made any claim in erstwhile Unit for cadre of Section Head which carried a good basic salary of Rs.250/- whereas the 'B' Grade (Clerical grade) starting basic salary was Rs.80/-only. In fact, if the petitioner would have been discharging supervisory duties, then certainly he would have put in his claim which he had not at any point of time. The petitioner has put forth his claim on the basis of two certificates only. These letters appear to have been used only for the purpose of categorization, but no reliance could have been placed on these letters nor these letters can be given weightage for the purpose of categorization of the petitioner as Assistant Administrative Officer, when the signatory of these letters himself has not reported all these facts in the data sheets of the petitioner, which is a basic document. Another fact to be noticed is that Shri Narialwala, Divisional Manager, while forwarding the representation of the petitioner dated 15th January 1977, under the covering letter dated 18th January 1977, has nowhere mentioned that the petitioner was working in supervisory capacity from 1969. Over and above, Shri Narialwala recommended the categorization of the petitioner as Senior Assistant and not as Assistant Administrative Officer. The bonafide of the documents on which reliance has been placed by the petitioner has been doubted. The data sheets have been prepared on the basis of personal

file of the employee and rightly the respondent held that in case these documents would have been in the file, then surely, Shri Narialwala would have mentioned them in the data sheets. It is also not case of the petitioner that these two documents were there on his personal file. The Labour Court judgment has also been taken into consideration. The order of the Labour Court has been produced by the petitioner on record wherefrom it is clearly borne out that the petitioner was officiating in the higher post in absence of permanent supervisor. Shri Trivedi was doing supervisory development functions and as such he was categorized as Assistant Administrative Officer. The case of Shri Trivedi was not comparable with the case of petitioner. Moreover, the petitioner has not produced any evidence, except these letters, to show how and what supervisory functions were being discharged by him and how they were similar to those discharged by Shri Trivedi. Taking into consideration the totality of the facts of the case, I do not find any illegality in the order impugned in the Special Civil Application which calls for interference of this Court.

6. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs.

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